

## **Senate Bill No. 1461**

### **CHAPTER 54**

An act to amend Section 25401 of the Corporations Code, to amend Section 6306 of the Family Code, to amend Section 12002 of the Fish and Game Code, to amend Section 15155 of the Government Code, to amend Section 655.7 of the Harbors and Navigation Code, to amend Sections 1796.58, 11352, and 11379 of the Health and Safety Code, to amend Sections 19.8, 273.75, 290.012, 311.11, 814, 4902, 11102.2, and 31000 of the Penal Code, and to amend Sections 213.5, 602, and 1401 of the Welfare and Institutions Code, relating to public safety.

[Approved by Governor June 25, 2014. Filed with  
Secretary of State June 25, 2014.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 1461, Committee on Public Safety. Public safety.

(1) Existing law makes it a misdemeanor, punishable by a fine of not more than \$2,000, imprisonment in the county jail for not more than one year, or by both that fine and imprisonment, to fail to visit and remove all animals from traps at least once daily. Existing law makes it a misdemeanor, punishable by a fine of \$1,000, imprisonment in the county jail for not more than 6 months, or by both that fine and imprisonment, to set or maintain traps that do not bear a number or other identifying mark, as specified.

This bill would instead provide that setting or maintaining traps that do not bear a number or other identifying mark, as specified, is punishable by a fine of not more than \$2,000, imprisonment in the county jail for not more than one year, or by both that fine and imprisonment, and that failing to visit and remove all animals from traps at least once daily is punishable by a fine of \$1,000, imprisonment in the county jail for not more than 6 months, or by both that fine and imprisonment.

(2) Existing law requires the Department of Justice to maintain a statewide telecommunications system of communication for the use of law enforcement agencies. The system is under the direction of the Attorney General. Existing law requires the Attorney General to appoint an advisory committee on the California Law Enforcement Telecommunications System to advise and assist in the management of the system. The committee serves at the pleasure of the Attorney General, without compensation, except for reimbursement of necessary travel expenses. Existing law requires the committee to consist of representatives from specified organizations, including from the Department of General Services.

This bill would change the membership of the committee by substituting the representative from the Department of General Services with a representative from the Office of Emergency Services.

(3) Existing law regulates the operation of personal watercraft, as defined, and imposes various requirements for the manufacture and safe operation of a personal watercraft. Existing law prohibits a person from operating a personal watercraft at any time between the hours from sunset to sunrise. A violation of this provision is an infraction.

This bill would exempt marine patrols, harbor police, or emergency personnel in the performance of their duties from that prohibition.

(4) Existing law categorizes controlled substances into 5 schedules. Existing law, subject to exceptions, makes it an offense to, among other things, transport specified Schedule I and Schedule II controlled substances, or any Schedule III, IV, or V controlled substance which is a narcotic drug, unless upon written prescription, as specified. Existing law, subject to exceptions, makes it an offense to, among other things, transport specified Schedule III, IV, or V controlled substances which are not a narcotic drug, unless upon written prescription, as specified. Existing law provides that these provisions do not preclude or limit the prosecution of an individual for aiding and abetting the commission of, or conspiring to commit, those prohibited acts.

This bill would additionally provide that those provisions do not preclude or limit the prosecution of an individual for acting as an accessory to those prohibited acts.

(5) Existing law requires, commencing January 1, 2011, the Department of Justice to establish, implement, and maintain a confirmation program to process fingerprint-based criminal record background clearances on individuals designated by agencies as custodians of records. Existing law requires agencies to designate custodians of records, and to annually notify the department as to the identity of the agencies' custodians of records.

This bill would delete that annual notification requirement.

(6) Under existing law and until January 1, 2016, California is a party to an interstate compact for juveniles. That compact requires California, among other things, to appoint a commissioner to the Interstate Commission for Juveniles and to create a state council for interstate juvenile supervision. Existing law makes the executive director of the Corrections Standards Authority the compact administrator.

This bill, instead, would make the Secretary of the Department of Corrections and Rehabilitation the compact administrator.

(7) This bill would make other technical, nonsubstantive changes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25401 of the Corporations Code is amended to read:

25401. It is unlawful for any person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to do any of the following:

(a) Employ a device, scheme, or artifice to defraud.

(b) Make an untrue statement of material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

(c) Engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

SEC. 2. Section 6306 of the Family Code is amended to read:

6306. (a) Prior to a hearing on the issuance or denial of an order under this part, the court shall ensure that a search is or has been conducted to determine if the subject of the proposed order has any prior criminal conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; has any misdemeanor conviction involving domestic violence, weapons, or other violence; has any outstanding warrant; is currently on parole or probation; has a registered firearm; or has any prior restraining order or any violation of a prior restraining order. The search shall be conducted of all records and databases readily available and reasonably accessible to the court, including, but not limited to, the following:

- (1) The California Sex and Arson Registry (CSAR).
- (2) The Supervised Release File.
- (3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.
- (4) The Federal Bureau of Investigation's nationwide database.
- (5) Locally maintained criminal history records or databases.

However, a record or database need not be searched if the information available in that record or database can be obtained as a result of a search conducted in another record or database.

(b) (1) Prior to deciding whether to issue an order under this part or when determining appropriate temporary custody and visitation orders, the court shall consider the following information obtained pursuant to a search conducted under subdivision (a): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(2) Information obtained as a result of the search that does not involve a conviction described in this subdivision shall not be considered by the court in making a determination regarding the issuance of an order pursuant to this part. That information shall be destroyed and shall not become part of the public file in this or any other civil proceeding.

(c) (1) After issuing its ruling, the court shall advise the parties that they may request the information described in subdivision (b) upon which the court relied. The court shall admonish the party seeking the proposed order that it is unlawful, pursuant to Sections 11142 and 13303 of the Penal Code, to willfully release the information, except as authorized by law.

(2) Upon the request of either party to obtain the information described in subdivision (b) upon which the court relied, the court shall release the

information to the parties or, upon either party's request, to his or her attorney in that proceeding.

(3) The party seeking the proposed order may release the information to his or her counsel, court personnel, and court-appointed mediators for the purpose of seeking judicial review of the court's order or for purposes of court proceedings under Section 213.5 of the Welfare and Institutions Code.

(d) Any information obtained as a result of the search conducted pursuant to subdivision (a) and relied upon by the court shall be maintained in a confidential case file and shall not become part of the public file in the proceeding or any other civil proceeding. However, the contents of the confidential case file shall be disclosed to the court-appointed mediator assigned to the case or to a child custody evaluator appointed by the court pursuant to Section 3111 of the Family Code or Section 730 of the Evidence Code. All court-appointed mediators and child custody evaluators appointed or contracted by the court pursuant to Section 3111 of the Family Code or Section 730 of the Evidence Code who may receive information from the search conducted pursuant to subdivision (a) shall be subject to, and shall comply with, the California Law Enforcement Telecommunications System policies, practices, and procedures adopted pursuant to Section 15160 of the Government Code.

(e) If the results of the search conducted pursuant to subdivision (a) indicate that an outstanding warrant exists against the subject of the order, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of any protective order and of any other information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(f) If the results of the search conducted pursuant to subdivision (a) indicate that the subject of the order is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of the issuance and contents of any protective order issued by the court and of any other information obtained through the search that the court determines is appropriate. That officer shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(g) Nothing in this section shall delay the granting of an application for an order that may otherwise be granted without the information resulting from the database search. If the court finds that a protective order under this part should be granted on the basis of the affidavit presented with the petition, the court shall issue the protective order and shall then ensure that a search is conducted pursuant to subdivision (a) prior to the hearing.

SEC. 3. Section 12002 of the Fish and Game Code is amended to read:

12002. (a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand

dollars (\$1,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars (\$2,000), imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

- (1) Section 1059.
- (2) Subdivision (c) of Section 4004.
- (3) Section 4600.
- (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
- (5) A first violation of Section 8670.
- (6) Section 10500.

(7) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(d) (1) A license, tag, stamp, reservation, permit, or other entitlement or privilege issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended or revoked. The license, tag, stamp, reservation, permit, or other entitlement or privilege shall not be reinstated or renewed, and no other license, tag, stamp, reservation, permit, or other entitlement or privilege shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

SEC. 4. Section 15155 of the Government Code is amended to read:

15155. The committee shall consist of representatives from the following organizations:

- (1) Two representatives from the Peace Officers' Association of the State of California.
- (2) One representative from the California State Sheriffs' Association.
- (3) One representative from the League of California Cities.
- (4) One representative from the County Supervisors Association of California.
- (5) One representative from the Department of Justice.
- (6) One representative from the Department of Motor Vehicles.
- (7) One representative from the Office of Emergency Services.
- (8) One representative from the California Highway Patrol.
- (9) One representative from the California Police Chiefs Association.

SEC. 5. Section 655.7 of the Harbors and Navigation Code is amended to read:

655.7. (a) A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the

lanyard to his or her person, clothing, or personal flotation device, as appropriate for the specific vessel.

(b) No person shall operate a personal watercraft equipped by the manufacturer with a self-circling device if the self-circling device or engine throttle has been altered in any way that would impede or prevent the self-circling device from operating in its intended manner.

(c) Every personal watercraft shall, at all times, be operated in a reasonable and prudent manner. Maneuvers that unreasonably or unnecessarily endanger life, limb, or property, including, but not limited to, jumping or attempting to jump the wake of another vessel within 100 feet of that other vessel, operating the personal watercraft toward any person or vessel in the water and turning sharply at close range so as to spray the vessel or person, or operating at a rate of speed and proximity to another vessel so that either operator is required to swerve at the last minute to avoid collision, is unsafe or reckless operation of a vessel.

(d) A person shall not operate a personal watercraft at any time between the hours from sunset to sunrise. This subdivision does not apply to marine patrol, harbor police, or emergency personnel in the performance of their duties.

(e) This section does not apply to a performer who is engaged in a professional exhibition or to a person who is participating in a regatta, race, marine parade, tournament, exhibition, or other event sanctioned by the United States Coast Guard or authorized by a permit issued by the local entity having jurisdiction over the area where the event is held.

(f) Any violation of this section is an infraction.

SEC. 6. Section 1796.58 of the Health and Safety Code is amended to read:

1796.58. Any person who violates this chapter, or who willfully or repeatedly violates a rule or regulation promulgated under this chapter, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment in a county jail for a period not to exceed 180 days, or by both that fine and imprisonment.

SEC. 7. Section 11352 of the Health and Safety Code is amended to read:

11352. (a) Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished

by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five years.

(b) Notwithstanding the penalty provisions of subdivision (a), any person who transports any controlled substances specified in subdivision (a) within this state from one county to another noncontiguous county shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine years.

(c) For purposes of this section, “transports” means to transport for sale.

(d) This section does not preclude or limit the prosecution of an individual for aiding and abetting the commission of, or conspiring to commit, or acting as an accessory to, any act prohibited by this section.

SEC. 8. Section 11379 of the Health and Safety Code is amended to read:

11379. (a) Except as otherwise provided in subdivision (b) and in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years.

(b) Notwithstanding the penalty provisions of subdivision (a), any person who transports any controlled substances specified in subdivision (a) within this state from one county to another noncontiguous county shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine years.

(c) For purposes of this section, “transports” means to transport for sale.

(d) Nothing in this section is intended to preclude or limit prosecution under an aiding and abetting theory, accessory theory, or a conspiracy theory.

SEC. 9. Section 19.8 of the Penal Code is amended to read:

19.8. (a) The following offenses are subject to subdivision (d) of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 602.13, and 853.7 of this code; subdivision (c) of Section 532b, and subdivision (o) of Section 602 of this code; subdivision (b) of Section 25658 and Sections 21672, 25661, and 25662 of the Business and Professions Code; Section 27204 of the Government Code; subdivision (c) of Section 23109 and Sections 5201.1, 12500, 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any other offense that the Legislature makes subject to subdivision (d) of Section

17. Except where a lesser maximum fine is expressly provided for a violation of those sections, a violation that is an infraction is punishable by a fine not exceeding two hundred fifty dollars (\$250).

(b) Except in cases where a different punishment is prescribed, every offense declared to be an infraction is punishable by a fine not exceeding two hundred fifty dollars (\$250)

(c) Except for the violations enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code, and Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for an offense made an infraction under subdivision (d) of Section 17 is not grounds for the suspension, revocation, or denial of a license, or for the revocation of probation or parole of the person convicted.

SEC. 10. Section 273.75 of the Penal Code is amended to read:

273.75. (a) On any charge involving acts of domestic violence as defined in subdivisions (a) and (b) of Section 13700 of the Penal Code or Sections 6203 and 6211 of the Family Code, the district attorney or prosecuting city attorney shall perform or cause to be performed, by accessing the electronic databases enumerated in subdivision (b), a thorough investigation of the defendant's history, including, but not limited to, prior convictions for domestic violence, other forms of violence or weapons offenses and any current protective or restraining order issued by any civil or criminal court. This information shall be presented for consideration by the court (1) when setting bond or when releasing a defendant on his or her own recognizance at the arraignment, if the defendant is in custody, (2) upon consideration of any plea agreement, and (3) when issuing a protective order pursuant to Section 136.2 of the Penal Code, in accordance with subdivision (h) of that section. In determining bail or release upon a plea agreement, the court shall consider the safety of the victim, the victim's children, and any other person who may be in danger if the defendant is released.

(b) For purposes of this section, the district attorney or prosecuting city attorney shall search or cause to be searched the following databases, when readily available and reasonably accessible:

(1) The California Sex and Arson Registry (CSAR).

(2) The Supervised Release File.

(3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.

(4) The Federal Bureau of Investigation's nationwide database.

(5) Locally maintained criminal history records or databases.

However, a record or database need not be searched if the information available in that record or database can be obtained as a result of a search conducted in another record or database.

(c) If the investigation required by this section reveals a current civil protective or restraining order or a protective or restraining order issued by another criminal court and involving the same or related parties, and if a protective or restraining order is issued in the current criminal proceeding, the district attorney or prosecuting city attorney shall send relevant information regarding the contents of the order issued in the current criminal



proceeding, and any information regarding a conviction of the defendant, to the other court immediately after the order has been issued. When requested, the information described in this subdivision may be sent to the appropriate family, juvenile, or civil court. When requested, and upon a showing of a compelling need, the information described in this section may be sent to a court in another state.

SEC. 11. Section 290.012 of the Penal Code is amended to read:

290.012. (a) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subdivision (b) of Section 290. At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in paragraphs (1) to (5), inclusive of subdivision (a) of Section 290.015. The registering agency shall give the registrant a copy of the registration requirements from the Department of Justice form.

(b) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice. Every person who, as a sexually violent predator, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense to the penalties prescribed in subdivision (f) of Section 290.018.

(c) In addition, every person subject to the Act, while living as a transient in California, shall update his or her registration at least every 30 days, in accordance with Section 290.011.

(d) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice California Sex and Arson Registry (CSAR).

SEC. 12. Section 311.11 of the Penal Code is amended to read:

311.11. (a) Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under 18 years of age, knowing that the matter depicts a person under 18 years of age personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a felony and shall be punished by imprisonment in the state prison, or a county jail for up to

one year, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the fine and imprisonment.

(b) Every person who commits a violation of subdivision (a), and who has been previously convicted of a violation of this section, an offense requiring registration under the Sex Offender Registration Act, or an attempt to commit any of the above-mentioned offenses, is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years.

(c) Each person who commits a violation of subdivision (a) shall be punished by imprisonment in the state prison for 16 months, or two or five years, or shall be punished by imprisonment in a county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the fine and imprisonment, if one of the following factors exists:

(1) The matter contains more than 600 images that violate subdivision (a), and the matter contains 10 or more images involving a prepubescent minor or a minor who has not attained 12 years of age.

(2) The matter portrays sexual sadism or sexual masochism involving a person under 18 years of age. For purposes of this section, “sexual sadism” means the intentional infliction of pain for purposes of sexual gratification or stimulation. For purposes of this section, “sexual masochism” means intentionally experiencing pain for purposes of sexual gratification or stimulation.

(d) It is not necessary to prove that the matter is obscene in order to establish a violation of this section.

(e) This section does not apply to drawings, figurines, statues, or any film rated by the Motion Picture Association of America, nor does it apply to live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

(f) For purposes of determining the number of images under paragraph (1) of subdivision (c), the following shall apply:

(1) Each photograph, picture, computer or computer-generated image, or any similar visual depiction shall be considered to be one image.

(2) Each video, video-clip, movie, or similar visual depiction shall be considered to have 50 images.

SEC. 13. Section 814 of the Penal Code is amended to read:

814. A warrant of arrest issued under Section 813 may be in substantially the following form:

County of \_\_\_\_\_

The people of the State of California to any peace officer of said State:

Complaint on oath having this day been laid before me that the crime of \_\_\_\_\_ (designating it generally) has been committed and accusing \_\_\_\_\_ (naming defendant) thereof, you are therefore commanded forthwith to arrest the above named defendant and bring him before me at \_\_\_\_\_ (naming the place), or in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at \_\_\_\_\_ (place) this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

\_\_\_\_\_  
(Signature and full official title of magistrate.)

SEC. 14. Section 4902 of the Penal Code is amended to read:

4902. (a) If the provisions of Section 851.865 or 1485.55 apply in any claim, the California Victim Compensation and Government Claims Board shall, within 30 days of the presentation of the claim, calculate the compensation for the claimant pursuant to Section 4904 and recommend to the Legislature payment of that sum. As to any claim to which Section 851.865 or 1485.55 does not apply, the Attorney General shall respond to the claim within 60 days or request an extension of time, upon a showing of good cause.

(b) Upon receipt of a response from the Attorney General, the board shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General at least 15 days prior to the time fixed for the hearing. The board shall use reasonable diligence in setting the date for the hearing and shall attempt to set the date for the hearing at the earliest date convenient for the parties and the board.

(c) If the time period for response elapses without a request for extension or a response from the Attorney General pursuant to subdivision (a), the board shall fix a time and place for the hearing of the claim, mail notice thereof to the claimant at least 15 days prior to the time fixed for the hearing, and make a recommendation based on the claimant's verified claim and any evidence presented by him or her.

SEC. 15. Section 11102.2 of the Penal Code is amended to read:

11102.2. (a) (1) As used in this section, "custodian of records" means the individual designated by an agency as responsible for the security, storage, dissemination, and destruction of the criminal records furnished to the agency and who serves as the primary contact for the Department of Justice for any related issues.

(2) As used in this section, "agency" means any public or private entity that receives criminal history information from the Department of Justice.

(3) As used in this section, "department" means the Department of Justice.

(b) Commencing January 1, 2011, the department shall establish, implement, and maintain a confirmation program to process fingerprint-based criminal record background clearances on individuals designated by agencies as custodians of records. Commencing July 1, 2011, no person shall serve as an agency custodian of records unless confirmed by the department. Criminal justice agency personnel who have undergone a state and federal criminal record background check are exempt from the requirements of this section. The department shall charge a fee of thirty dollars (\$30) to cover the costs of the confirmation program in addition to a fee sufficient to cover the cost of processing the appropriate state and federal level criminal record background check.

(c) Every agency must designate at least one custodian of records.

(1) The agency shall submit to the department the fingerprint images and related information of the individual or individuals designated by the agency to serve as the custodian or custodians of records, along with the appropriate fees and documentation. The department shall retain one copy of the fingerprint impressions to process a state level criminal record background check, and it shall submit one copy of the fingerprint impressions of each individual to the Federal Bureau of Investigation to process a federal level criminal record background check.

(2) The department shall retain the fingerprint impressions for subsequent arrest notification pursuant to Section 11105.2.

(d) Every individual confirmed as a custodian of records shall be at least 18 years of age and shall have completed and submitted a written application prescribed by the department.

(e) Prior to confirming an individual as a custodian of records, the department shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position.

(f) The department shall not confirm any individual who has been convicted of a felony offense or any other offense that involves moral turpitude, dishonesty, or fraud, or that impacts the applicant's ability to perform the duties or responsibilities of a custodian of records. The confirmation shall be revoked if, at any time, the individual is convicted of either a felony offense, or any other offense that involves moral turpitude, dishonesty, or fraud, or that impacts the applicant's ability to perform the duties or responsibilities of a custodian of records.

(g) In addition to subdivision (f), the department may refuse to confirm any individual as a custodian of records or revoke or suspend the confirmation of any custodian of records if the individual has done any of the following:

(1) Made a substantial and material misstatement or omission in the application submitted to the department.

(2) Been convicted of an offense of a nature incompatible with the duties of a custodian of records. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision.

(3) Failed to discharge fully and faithfully any of the duties or responsibilities required of a custodian of records.

(4) Been adjudged liable for damages in any suit grounded in fraud, misrepresentation, or in violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties of a custodian of records.

(5) Committed any act involving dishonesty, fraud, or deceit.

(6) Failed to submit any remittance payable upon demand by the department under this section or failed to satisfy any court ordered money judgment, including restitution.

(h) The agency shall immediately notify the department when the designated custodian of records no longer serves in that capacity.

SEC. 16. Section 31000 of the Penal Code is amended to read:

31000. (a) Any person who lawfully acquired an assault weapon before June 1, 1989, or a .50 BMG rifle before January 1, 2005, and wishes to use it in a manner different than specified in Section 30945 shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

(b) Any person who lawfully acquired an assault weapon between June 1, 1989, and January 1, 1990, and wishes to keep it after January 1, 1990, shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

(c) Any person who wishes to acquire an assault weapon after January 1, 1990, or a .50 BMG rifle after January 1, 2005, shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.

(d) On and after January 1, 2014, no partnership, corporation, limited liability company, association, or any other group or entity, regardless of how the entity was created, may be issued a permit to possess an assault weapon or a .50 BMG rifle.

SEC. 17. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or in the manner provided by Section 6300 of the Family Code, if related to domestic violence, the juvenile court has exclusive jurisdiction to issue ex parte orders (1) enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; and (2) excluding any person from the dwelling of the person who has care, custody, and control of the child. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including,

but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former social worker or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former probation officer or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(c) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 21 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court

may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service of the order to show cause on the person to be restrained. The court may, upon its own motion or the filing of a declaration by the person seeking the restraining order, find that the person to be restrained could not be served within the time required by law and reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained. The reissued order shall remain in effect until the date set for the hearing. The reissued order shall state on its face the date of expiration of the order. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) (1) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, no more than three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(2) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the juvenile court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive his or her right to notice if he or she is physically present and does not challenge the sufficiency of the notice.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (b), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) All data with respect to a juvenile court protective order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), shall be transmitted by the court or its designee, within one business day, to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) of Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials notified shall take all actions



necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

(k) Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

SEC. 18. Section 602 of the Welfare and Institutions Code is amended to read:

602. (a) Except as provided in subdivision (b), any person who is under 18 years of age when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court.

(b) Any person who is alleged, when he or she was 14 years of age or older, to have committed one of the following offenses shall be prosecuted under the general law in a court of criminal jurisdiction:

(1) Murder, as described in Section 187 of the Penal Code, if one of the circumstances enumerated in subdivision (a) of Section 190.2 of the Penal Code is alleged by the prosecutor, and the prosecutor alleges that the minor personally killed the victim.

(2) The following sex offenses, if the prosecutor alleges that the minor personally committed the offense, and if the prosecutor alleges one of the circumstances enumerated in the One Strike law, subdivision (d) or (e) of Section 667.61 of the Penal Code, applies:

(A) Rape, as described in paragraph (2) of subdivision (a) of Section 261 of the Penal Code.

(B) Spousal rape, as described in paragraph (1) of subdivision (a) of Section 262 of the Penal Code.

(C) Forcible sex offenses in concert with another, as described in Section 264.1 of the Penal Code.

(D) Forcible lewd and lascivious acts on a child under 14 years of age, as described in subdivision (b) of Section 288 of the Penal Code.

(E) Forcible sexual penetration, as described in subdivision (a) of Section 289 of the Penal Code.

(F) Sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code, by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(G) Lewd and lascivious acts on a child under 14 years of age, as defined in subdivision (a) of Section 288, unless the defendant qualifies for probation under subdivision (d) of Section 1203.066 of the Penal Code.

SEC. 19. Section 1401 of the Welfare and Institutions Code is amended to read:

1401. The compact administrator shall be the Secretary of the Department of Corrections and Rehabilitation, or his or her designee.